

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VISIBLE SYSTEMS CORPORATION,

Plaintiff,

v.

Civil Action No. 04-11610-RGS

UNISYS CORPORATION,

Defendant.

Declaration of John Nash

1. My name is John Nash. I reside at 10 Stowecroft Drive, Hampton, NH 03842. I am the Vice President of Marketing for Visible Systems Corporation of Lexington, MA. I make the statements herein based on my personal knowledge.

2. Since the start of Unisys Corporation's "3D Visible Enterprise" program, I have been tasked at Visible Systems Corporation with doing opposition research to understand Unisys' VISIBLE-related advertising. I presented the results of my opposition research at trial on July 24, 2007.

3. Following the trial, I have continued my opposition research, performing periodic Google searches to ascertain trends in the manner and frequency Unisys' online advertising with the terms "3D Visible Enterprise" "Visible Breakthrough," among other VISIBLE-related names.

4. I have found that following the trial, and specifically during September 2007, Unisys has greatly increased its use of "Visible Breakthrough" in online advertising.

5. My Google search for Unisys and "Visible Breakthrough" on September 24, 2007, yielded 71,600 occurrences (*see* Exhibit 2, attached), more than double the number yielded

by the same Google search when I performed it on September 4, 2007 (*see* Exhibit 3, showing 33,900 result occurrences for the search terms Unisys and “Visible Breakthrough”).

6. The sharp upward trend in Unisys’ use of “Visible Breakthrough” compares to a moderate increase in the occurrence of “3D Visible Enterprise” with Unisys on the Internet. My Google search for the occurrences of Unisys and “3D Visible Enterprise” shows modest growth in September 2007 from 76,000 occurrences on September 4, 2007 (Ex. 4) to 84,800 occurrences on September 24, 2007 (Ex. 5).

7. Occurrences of “Visible Breakthrough” and “3D Visible Enterprise” are found on third party websites, such as www.zdnet.com and www.zdnet.co.uk, which allow companies such as Unisys and Visible Systems Corp. to submit, change, and delete company-related content in coordination with staff of zdnet.com. I have personal experience with www.zdnet.com and with other similar websites operated by the same company, namely, Ziff Davis. In my experience, client companies of Ziff Davis, such as Unisys or Visible Systems Corporation, have the ability to add, change, and delete content about them appearing on www.zdnet.com and similar websites operated by Ziff Davis.

8. Exhibit 6 is an example of a webpage from the UK-based site www.zdnet.co.uk, which I accessed from the United States, and which displays various Unisys advertising under the marketing slogan “Visible Breakthrough.” Some of the advertising touts Unisys success stories with US companies, including EMC Insurance from Des Moines, Iowa, and Noridian Mutual Insurance Co. of Fargo, North Dakota (*see* Ex. 6, pages 1-2).

I declare under penalty of perjury that the foregoing is true and correct.

John Nash

Executed this 26th day of September 2007